

Michael Bush
280 Lowell Street
Carlisle MA 01741

PRIORITY MAIL

August 27, 2021

Erin O'Brien Bettez
Director of Community Education
Acton Boxborough Regional School District
Administration Building
15 Charter Road
Acton MA 01720

Dawn Bentley
Assistant Superintendent for Diversity, Equity, and Inclusion
Acton Boxborough Regional School District
Administration Building
15 Charter Road
Acton MA 01720

**NOTICE OF CLAIM PURSUANT TO M.G.L. CH. 93A AND THIRTY (30) DAY DEMAND
FOR SETTLEMENT**

Dear Director Bettez and Asst. Superintendent Bentley:

This letter constitutes a Notice of Claim for violation of civil rights and unfair and/or deceptive business practices under Massachusetts General Laws, Chapter 93A, §9, as well as demand for resolution within the next thirty (30) days. This letter is being mailed and/or delivered to you as the prospective respondents, as is required by Massachusetts General Laws, Chapter 93A, §9(3).

This letter serves as written notice of a claim for a violation of M.G.L. Chapter 93A. You have engaged in unfair and deceptive practice and conduct towards me to my detriment.

You have published online at <https://z2policy.ctspublish.com/masc/browse/actonset/acton/EBCFA-R> a EBCFA-R - REQUIREMENT TO WEAR MASKS/FACE COVERINGS policy (enclosed as Exhibit 1 and hereinafter referred to as the "school policy") which states in part that "the District will begin the 2021-22 school year by requiring all students and staff PK-12, regardless of vaccination status, to wear a mask when indoors... All visitors, where permitted, to schools for meetings and events are required to wear a mask when indoors."

Your school policy alleges that by wearing masks, persons protect themselves and/or others from infection by airborne coronaviruses. By creating such a policy and the other requirements and procedures in the school policy, you have effectively assumed responsibility and liability for coronavirus infections and illnesses that persons may contract in the schools. You have also assumed liability for any

harm the masks and other COVID procedures specified in your school policy and document cause students, staff, visitors, or other persons.

The school policy states that, “during periods of ‘low’ Covid transmission in the community and region:... Students in Grades 7-12 who have proof of full vaccination\$ [sic] on file with the school are not required to wear masks indoors... Staff who have proof of full vaccination on file with the district are not required to wear masks indoors.” However, the “vaccines” currently with Emergency Use Authorization(s) or approval(s) from the U.S. Food and Drug Administration (FDA) for prevention of COVID-19 do not prevent infection or transmission of SARS-CoV-2 (the virus associated with COVID-19).¹ Thus, your policy is deceptive by falsely representing that such vaccinations protect others from infection by SARS-CoV-2 and it is also unfairly discriminatory towards unvaccinated persons.

The school policy unfairly discriminates against people with naturally-acquired immunity to COVID-19. This is all the more unfair given that naturally-acquired immunity has been shown to provide greater resistance to infection and disease and to be longer-lasting than immunity conferred by the so-called “vaccines” against SARS-CoV-2 / COVID-19.^{2 and 3}

The immunity conferred by the only “vaccine” currently approved against SARS-CoV-2 by the FDA is known to wane substantially within just a matter of months. Yet, despite that having been publicly known before the August 19th, 2021 latest update to your school policy, your school policy makes no distinction between those persons who have been recently “vaccinated” and those who had been “vaccinated” many months before.

By requiring persons to wear masks or face coverings without having specified that those masks be tested, effective, or approved for the function of preventing the spread of coronavirus infections, you have made a false, misleading, and unsubstantiated claim. The U.S. Food and Drug Administration’s (FDA) Emergency Use Authorization (EUA) for surgical and/or cloth masks requires that, “The product is not labeled in such a manner that would misrepresent the product’s intended use; for example, the labeling must not state or imply that the product is intended for antimicrobial or antiviral protection or related uses or is for use such as infection prevention or reduction.”

The statute granting the FDA the power to authorize a medical product for emergency use requires that the person being administered the product be advised of his or her right to refuse administration of the product. This statute further recognizes the well-settled doctrine that medical experiments, or “clinical research,” may not be performed on human subjects without the express, informed consent of the individual receiving treatment. As C.F.R. § 50.20 states, “An investigator shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the subject or the representative shall be in language understandable to the subject or the representative.”

603 CMR 18.05(8)(a) states that, “The school shall not conduct any of the following without prior written notification to, and the prior written specific consent of, the affected student's parent:... research or experimentation.” While it may not have been your *intent* to conduct research or experimentation, the procedures and requirements you specified in your school policy are by their nature experimental. Masks are not effective for prevention of the spread of COVID-19⁵, have known harms to children and

adults⁶, and are not approved to prevent the spread of coronavirus infections. An EUA from the FDA, mentioned above, is for products of an investigational or experimental nature. The FDA has only issued EUAs—not formal approvals of safety, accuracy, or efficacy—to certain masks. Your school policy failed to disclose to students, parents, staff, visitors, or other readers that your procedures and requirements are experimental and known to be harmful. Your school policy also failed to mention that prior written specific consent from each student's parent would have to be obtained before such experimental masks are required of, given to, or administered to each student.

Some religions and/or creeds may prohibit or advise against wearing masks or certain medical procedures as your school policy requires. Therefore, your school policy is in violation of M.G.L. Chapter 151(C)(2)(a) which forbids educational institutions, "To exclude or limit or otherwise discriminate against any United States citizen or citizens seeking admission as students to such institution because of race, religion, creed..." Any such policy would have to allow for students and/or their parents or guardians to assert exemption from such a requirement based on their religion and/or creed. Further, M.G.L. Chapter 151(C)(2)(c) forbids you to, "cause to be made any written or oral inquiry concerning the race, religion, color or national origin of a person seeking admission..."

Some religions, creeds, physical disabilities, and/or mental disabilities prohibit or contraindicate the wearing of masks or face coverings. Therefore, your Acton Boxborough Community Education (ABCE) mask policy (enclosed as Exhibit 2 and hereinafter referred to as "ABCE mask policy") which states simply that, "Masks must be worn at all times when inside the RJ Grey JH for this program" violates M.G.L. Chapter 272 Section 92A. The statute prohibits public accommodations (including "a place of public amusement, recreation, sport, exercise or entertainment") from depriving people of any, "religious sect, creed... deafness or blindness, or any physical or mental disability" of the "full enjoyment of the accommodations, advantages, facilities or privileges offered to the general public." Further, the statute states that, "Any person who shall violate any provision of this section, or who shall aid in or incite, cause or bring about, in whole or in part, such a violation shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or both."

Wearing face coverings / masks is medically contraindicated for certain persons. Therefore, your policy requiring people to wear masks without regard for their medical needs violates the federal Americans with Disabilities Act. Title II of the Americans with Disabilities Act (ADA) provides that no individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, program, or activities of a public entity, or be subjected to discrimination by any such entity. Title III of the ADA prohibits discrimination on the basis of disability in public schools, among other places. To require evidence of such medical needs or disability would violate the spirit and intent of the law. Thus, you may not require such evidence or information from students, parents, visitors or other persons.

As you have violated my federal and Massachusetts legal rights and those of others, pursuant to M.G.L. Ch. 265 Section 37, you and any other personnel communicating or attempting to implement these unlawful policies may personally, "be fined not more than one thousand dollars or imprisoned not more than one year or both; and if bodily injury results, shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than ten years, or both."

Note that the Department of Elementary and Secondary Education's recent policy "Implementation of DESE Mask Requirement" published at <https://www.doe.mass.edu/covid19/on-desktop/2021-0825mask-requirement.pdf> is not a law, has dubious legal validity, and suffers from many of the same misrepresentations and legal violations as your policies do. Referring to DESE's policy does not excuse you or any school or ABCE personnel from legal liability should you communicate or attempt to implement procedures, requirements, or policies that are unfair, deceptive, and/or unlawful.

Your policies are in violation of Title 18 U.S.C. § 242 - Deprivation Of Rights Under Color Of Law. School committee members, faculty, staff, superintendents, officials, or other personnel having created, communicated, or attempted to enforce such policies in violation of civil rights laws may be charged or sued for such violation(s) pursuant to Title 42 U.S.C. § 1983 - Civil Rights Action For Deprivation Of Rights.

Wearing masks is medically inappropriate for me and objectionable to my sincerely held religious convictions. I am registered to attend ABCE's Advanced Volleyball For Adults classes starting September 21st, 2021. Though M.G.L. Ch. 93A gives you 30 days to respond to this letter, please ensure ABCE instructors, customers registered for ABCE activities, and all school staff are informed of the rescission of the ABCE mask policy before September 21st, 2021. If I encounter harassment or unlawful discrimination at those or subsequent classes due to your failure to rescind the ABCE mask policy and communicate its rescission adequately before then, I may hold you personally liable.

I therefore demand that within the next thirty (30) days you:

1. Rescind the above-identified misleading and unlawful school policy and ABCE mask policy,
2. Notify school parents, school staff, ABCE staff and instructors, and ABCE customers of the rescission of the school policy and ABCE mask policy,
3. Respond to this letter with evidence that you have communicated the rescission of those policies as specified and with written assurance that you shall henceforth refrain from improper medical claims, experimentation without consent, and religious and medical discrimination.

Should you fail to reasonably respond to this letter, I will vigorously pursue the remedies available to me in preserving my legal rights and obtaining monetary and/or other redress.

Sincerely,



Michael Bush
280 Lowell Street
Carlisle MA 01741

¹ <https://www.cnn.com/2021/07/30/cdc-study-shows-74percent-of-people-infected-in-massachusetts-covid-outbreak-were-fully-vaccinated.html>

² <https://www.theblaze.com/op-ed/horowitz-15-studies-that-indicate-natural-immunity-from-prior-infection-is-more-robust-than-the-covid-vaccines>

³ <https://www.medrxiv.org/content/10.1101/2021.08.24.21262415v1>

⁴ <https://www.wsj.com/articles/zero-covid-coronavirus-pandemic-lockdowns-china-australia-new-zealand-11628101945>

⁵ <https://www.acpjournals.org/doi/10.7326/M20-6817>

⁶ <https://www.bmj.com/content/370/bmj.m3021/rr-6>